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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

**HILLARY LAWSON, KRISTINA
HALLMAN, STEPHANIE CALDWELL,
MOIRA HATHAWAY, MACEY SPEIGHT,
ROSEMARIE PETERSON, and LAUREN
FULLER,**

Plaintiffs,

– against –

**HOWARD RUBIN, JENNIFER POWERS,
and the DOE COMPANY.**

Defendants.

Case No.: 1:17-cv-06404 (BMC)

**PLAINTIFFS' ANSWER TO
COUNTERCLAIMS AND
THIRD-PARTY COMPLAINTS
BY JENNIFER POWERS**

Plaintiffs Hillary Lawson (“Lawson”), Kristina Hallman (“Hallman”), Moira Hathaway, (“Hathaway”), Macey Speight (“Speight”), Lauren Fuller (“Fuller”), and Rosemarie Peterson (“Peterson,” collectively known as “Plaintiffs”), by their attorneys Balestriere Fariello, for their reply to the Answer to Second Amended Complaint, Counterclaims and Third-Party Complaint (the “Counterclaims,” dated September 7, 2018, Dkt. No. 170) of Defendant Jennifer Powers (“Powers” or “Defendant”) state as follows:

GENERAL DENIAL

Except as expressly admitted, Plaintiffs deny each and every allegation in the Counterclaims.

RESPONSES TO ALLEGATIONS IN THE AFFIRMATIVE DEFENSES

First Affirmative Defense

1. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 1 of the Counterclaims, as they set forth legal conclusion which warrant no response.

Second Affirmative Defense

2. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 2 of the Counterclaims, as they set forth legal conclusion which warrant no response.

Third Affirmative Defense

3. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 3 of the Counterclaims, as they set forth legal conclusion which warrant no response.

Fourth Affirmative Defense

4. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 4 of the Counterclaims, as they set forth legal conclusion which warrant no response.

Fifth Affirmative Defense

5. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 5 of the Counterclaims, as they set forth legal conclusion which warrant no response.

Sixth Affirmative Defense

6. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 6 of the Counterclaims, as they set forth legal conclusion which warrant no response.

Seventh Affirmative Defense

7. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 7 of the Counterclaims, as they set forth legal conclusion which warrant no response.

Eighth Affirmative Defense

8. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 8 of the Counterclaims, as they set forth legal conclusion which warrant no response.

Ninth Affirmative Defense

9. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 9 of the Counterclaims, as they set forth legal conclusion which warrant no response.

Tenth Affirmative Defense

10. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 10 of the Counterclaims, as they set forth legal conclusion which warrant no response.

Eleventh Affirmative Defense

11. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 11 of the Counterclaims, as they set forth legal conclusion which warrant no response.

Twelfth Affirmative Defense

12. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 12 of the Counterclaims, as they set forth legal conclusion which warrant no response, but to the extent that any allegations of fact are made, Plaintiffs deny the allegations in paragraph 12 of the Counterclaims.

Thirteenth Affirmative Defense

13. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 13 of the Counterclaims, as they set forth legal conclusion which warrant no response but to the extent

that any allegations of fact are made, Plaintiffs deny the allegations in paragraph 13 of the Counterclaims.

Fourteenth Affirmative Defense

14. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 14 of the Counterclaims, as they set forth legal conclusion which warrant no response, but to the extent that any allegations of fact are made, Plaintiffs deny the allegations in paragraph 14 of the Counterclaims.

Fifteenth Affirmative Defense

15. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 15 of the Counterclaims, as they set forth legal conclusion which warrant no response.

Sixteenth Affirmative Defense

16. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 16 of the Counterclaims, as they set forth legal conclusion which warrant no response.

Seventeenth Affirmative Defense

17. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 17 of the Counterclaims, as they set forth legal conclusion which warrant no response.

Eighteenth Affirmative Defense

18. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 18 of the Counterclaims, as they set forth legal conclusion which warrant no response.

Nineteenth Affirmative Defense

19. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 19 of the Counterclaims, as they set forth legal conclusion which warrant no response.

Twentieth Affirmative Defense

20. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 20 of the Counterclaims, as they set forth legal conclusion which warrant no response.

Twenty-First Affirmative Defense

21. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 21 of the Counterclaims, as they set forth legal conclusion which warrant no response.

Twenty-Second Affirmative Defense

22. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 22 of the Counterclaims, as they set forth legal conclusion which warrant no response.

Twenty-Third Affirmative Defense

23. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 23 of the Counterclaims, as they set forth legal conclusion which warrant no response.

Twenty-Fourth Affirmative Defense

24. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 24 of the Counterclaims, as they set forth legal conclusion which warrant no response, but to the extent that any allegations of fact are made, Plaintiffs deny the allegations in paragraph 14 of the Counterclaims.

Twenty-Fifth Affirmative Defense

25. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 25 of the Counterclaims, as they set forth legal conclusion which warrant no response, but to the extent that any allegations of fact are made, Plaintiffs deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations as set forth in paragraph 25 of the Counterclaims.

Twenty-Sixth Affirmative Defense

26. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 26 of the Counterclaims, as they set forth legal conclusion which warrant no response.

RESPONSES TO ALLEGATIONS IN THE COUNTERCLAIMS AND THIRD-PARTY

COMPLAINTS

NATURE OF ACTION AND BACKGROUND

1. Plaintiffs deny the allegations as set forth in paragraph 1 of the Counterclaims.
2. Plaintiffs deny the allegations as set forth in paragraph 2 of the Counterclaims.
3. Plaintiffs deny the allegations as set forth in paragraph 3 of the Counterclaims.
4. Plaintiffs deny the allegations as set forth in paragraph 4 of the Counterclaims.
5. Plaintiffs deny the allegations as set forth in paragraph 5 of the Counterclaims.
6. Plaintiffs deny the allegations as set forth in paragraph 6 of the Counterclaims.
7. Plaintiffs admit the allegations as set forth in paragraph 7 of the Counterclaims.
8. Plaintiffs deny the allegations as set forth in paragraph 8 of the Counterclaims.
9. Plaintiffs deny the allegations as set forth in paragraph 9 of the Counterclaims.
10. Plaintiffs deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations as set forth in paragraph 10 of the Counterclaims.

11. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 11 of the Counterclaims, as they set forth legal conclusion which warrant no response, but to the extent that any allegations of fact are made, Plaintiffs deny the allegations as set forth in paragraph 11 of the Counterclaims.

12. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 12 of the Counterclaims, as they set forth legal conclusion which warrant no response, but to the extent that any allegations of fact are made, Plaintiffs deny having knowledge or information sufficient

to form a belief as to the truth or falsity of the allegations as set forth in paragraph 12 of the Counterclaims.

13. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 13 of the Counterclaims, as they set forth legal conclusion which warrant no response, but to the extent that any allegations of fact are made, Plaintiffs deny the allegations as set forth in paragraph 13 of the Counterclaims.

14. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 14 of the Counterclaims, as they set forth legal conclusion which warrant no response, but to the extent that any allegations of fact are made, Plaintiffs deny the allegations as set forth in paragraph 13 of the Counterclaims.

15. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 15 of the Counterclaims, as they set forth legal conclusion which warrant no response, but to the extent that any allegations of fact are made, Plaintiffs deny the allegations as set forth in paragraph 13 of the Counterclaims.

16. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 16 of the Counterclaims, as they set forth legal conclusion which warrant no response, but to the extent that any allegations of fact are made, Plaintiffs deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations as set forth in paragraph 16 of the Counterclaims.

17. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 17 of the Counterclaims, as they set forth legal conclusion which warrant no response, but to the extent that any allegations of fact are made, Plaintiffs deny the allegations as set forth in paragraph 17 of the Counterclaims.

18. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 18 of the Counterclaims, as they set forth legal conclusion which warrant no response, but to the extent that any allegations of fact are made, Plaintiffs deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations as set forth in paragraph 18 of the Counterclaims.

19. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 19 of the Counterclaims, as they set forth legal conclusion which warrant no response, but to the extent that any allegations of fact are made, Plaintiffs deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations as set forth in paragraph 19 of the Counterclaims.

JURISDICTION AND VENUE

20. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 20 of the Counterclaims, as they set forth legal conclusion which warrant no response.

21. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 21 of the Counterclaims, as they set forth legal conclusion which warrant no response.

PARTIES

22. Plaintiffs admit the allegations as set forth in paragraph 22 of the Counterclaims.

23. Plaintiffs admit the allegations as set forth in paragraph 23 of the Counterclaims.

24. Plaintiffs admit the allegations as set forth in paragraph 24 of the Counterclaims.

25. Plaintiffs admit the allegations as set forth in paragraph 25 of the Counterclaims.

26. Plaintiffs admit the allegations as set forth in paragraph 26 of the Counterclaims.

27. Plaintiffs admit the allegations as set forth in paragraph 27 of the Counterclaims.

28. Plaintiffs deny the allegations as set forth in paragraph 28 of the Counterclaims.

29. Plaintiffs deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations as set forth in paragraph 29 of the Counterclaims.

CAUSES OF ACTION

FIRST CAUSE OF ACTION
(Breach of Contract Against All Plaintiffs)

30. Plaintiffs deny the allegations as set forth in paragraph 30 of the Counterclaims.

31. Plaintiffs deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations as set forth in paragraph 31 of the Counterclaims.

32. Plaintiffs deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations as set forth in paragraph 32 of the Counterclaims.

33. Plaintiffs deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations as set forth in paragraph 33 of the Counterclaims.

34. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 34 of the Counterclaims, as they set forth legal conclusion which warrant no response, but to the extent that any allegations of fact are made, Plaintiffs deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations as set forth in paragraph 34 of the Counterclaims.

35. Plaintiffs deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations as set forth in paragraph 35 of the Counterclaims.

36. Plaintiffs deny the allegations as set forth in paragraph 36 of the Counterclaims.

37. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 37 of the Counterclaims, as they set forth legal conclusion which warrant no response, but to the extent that any allegations of fact are made, Plaintiffs deny having knowledge or information sufficient

to form a belief as to the truth or falsity of the allegations as set forth in paragraph 37 of the Counterclaims.

38. Plaintiffs deny having knowledge or information sufficient to form a belief as to the truth or falsity of allegations as set forth in paragraph 38 of the Counterclaims.

39. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 39 of the Counterclaims, as they set forth legal conclusion which warrant no response, but to the extent that any allegations of fact are made, Plaintiffs deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations as set forth in paragraph 39 of the Counterclaims.

40. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 40 of the Counterclaims, as they set forth legal conclusion which warrant no response, but to the extent that any allegations of fact are made, Plaintiffs deny the allegations as set forth in paragraph 40 of the Counterclaims.

41. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 41 of the Counterclaims, as they set forth legal conclusion which warrant no response, but to the extent that any allegations of fact are made, Plaintiffs deny the allegations as set forth in paragraph 41 of the Counterclaims.

42. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 42 of the Counterclaims, as they set forth legal conclusion which warrant no response, but to the extent that any allegations of fact are made, Plaintiffs deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations as set forth in paragraph 42 of the Counterclaims.

43. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 43 of the Counterclaims, as they set forth legal conclusion which warrant no response, but to the extent

that any allegations of fact are made, Plaintiffs deny the allegations as set forth in paragraph 43 of the Counterclaims.

44. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 44 of the Counterclaims, as they set forth legal conclusion which warrant no response, but to the extent that any allegations of fact are made, Plaintiffs deny the allegations as set forth in paragraph 44 of the Counterclaims.

45. Plaintiffs deny the allegations as set forth in paragraph 45 of the Counterclaims.

46. Plaintiffs deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations as set forth in paragraph 46 of the Counterclaims.

47. Plaintiffs deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations as set forth in paragraph 47 of the Counterclaims.

48. Plaintiffs deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations as set forth in paragraph 48 of the Counterclaims, including all subparts.

49. Plaintiffs deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations as set forth in paragraph 49 of the Counterclaims.

50. Plaintiffs deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations as set forth in paragraph 50 of the Counterclaims.

51. Plaintiffs deny the allegations as set forth in paragraph 51 of the Counterclaims.

52. Plaintiffs deny the allegations as set forth in paragraph 52 of the Counterclaims.

53. Plaintiffs admit the allegations as set forth in paragraph 53 of the Counterclaims.

54. Plaintiffs deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations as set forth in paragraph 54 of the Counterclaims.

55. Plaintiffs deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations as set forth in paragraph 55 of the Counterclaims.

56. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 56 of the Counterclaims, as they set forth legal conclusion which warrant no response, but to the extent that any allegations of fact are made, Plaintiffs deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations as set forth in paragraph 56 of the Counterclaims.

57. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 57 of the Counterclaims, as they set forth legal conclusion which warrant no response, but to the extent that any allegations of fact are made, Plaintiffs deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations as set forth in paragraph 57 of the Counterclaims.

58. Plaintiffs deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations as set forth in paragraph 58 of the Counterclaims.

59. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 59 of the Counterclaims, as they set forth legal conclusion which warrant no response, but to the extent that any allegations of fact are made, Plaintiffs deny the allegations as set forth in paragraph 59 of the Counterclaims.

SECOND CAUSE OF ACTION
(Contribution Against Hallman and Lawson)

60. Paragraph 60 of the Counterclaims repeats and realleges the allegations made above as if fully set forth herein.

61. Plaintiffs deny the allegations as set forth in paragraph 61 of the Counterclaims.

62. Plaintiffs deny the allegations as set forth in paragraph 62 of the Counterclaims.

63. Plaintiffs deny the allegations as set forth in paragraph 63 of the Counterclaims.

64. Plaintiffs deny the allegations as set forth in paragraph 64 of the Counterclaims.

65. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 65 of the Counterclaims, as they set forth legal conclusion which warrant no response, but to the extent that any allegations of fact are made, Plaintiffs deny the allegations as set forth in paragraph 65 of the Counterclaims.

66. Plaintiffs deny the allegations as set forth in paragraph 66 of the Counterclaims.

67. Plaintiffs deny the allegations as set forth in paragraph 67 of the Counterclaims.

68. Plaintiffs deny the allegations as set forth in paragraph 68 of the Counterclaims.

69. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 69 of the Counterclaims, as they set forth legal conclusion which warrant no response, but to the extent that any allegations of fact are made, Plaintiffs deny the allegations as set forth in paragraph 69 of the Counterclaims.

70. Plaintiffs deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations as set forth in paragraph 70 of the Counterclaims.

71. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 71 of the Counterclaims, as they set forth legal conclusion which warrant no response, but to the extent that any allegations of fact are made, Plaintiffs deny the allegations as set forth in paragraph 71 of the Counterclaims.

72. Plaintiffs can neither admit nor deny the allegations as set forth in paragraph 72 of the Counterclaims, as they set forth legal conclusion which warrant no response, but to the extent that any allegations of fact are made, Plaintiffs deny the allegations as set forth in paragraph 72 of the Counterclaims.

DEMAND FOR JURY TRIAL

73. Plaintiffs deny that Defendant is entitled to the relief requested in the Counterclaims.

PLAINTIFFS' AFFIRMATIVE DEFENSES

By way of a further Answer and as affirmative defenses, Plaintiffs deny that they are liable to Plaintiffs for any of the claims alleged, and deny that Defendant is entitled to damages or any other relief whatsoever, and states as follows:

FIRST AFFIRMATIVE DEFENSE
(Failure to State a Claim)

1. The Counterclaims and each purported claim for relief alleged therein, fails to state a claim upon which relief can be granted against Plaintiffs as a matter of law and fact.

SECOND AFFIRMATIVE DEFENSE
(Statute of Limitations)

2. The Counterclaims are barred, in whole or in part, by the applicable statutes of limitation.

THIRD AFFIRMATIVE DEFENSE
(Laches)

3. The Counterclaims are barred, in whole or in part, by the doctrine of Laches.

FOURTH AFFIRMATIVE DEFENSE
(Unclean Hands)

4. The Counterclaims are barred, in whole or in part, by virtue of Defendant's own unclean hands.

FIFTH AFFIRMATIVE DEFENSE
(Ratification)

5. Defendant ratified and/or accepted the alleged acts or omissions alleged in the Counterclaims.

SIXTH AFFIRMATIVE DEFENSE
(Failure to Mitigate Damages)

6. If Defendant has suffered any injury or harm, which Plaintiffs expressly deny, Defendant's recovery or entitlement to relief is barred by their failure to mitigate, reduce, or otherwise avoid their alleged damages or injury.

SEVENTH AFFIRMATIVE DEFENSE
(No Cognizable Injury)

7. The Counterclaims are barred, in whole or in part, because Defendant has suffered no actual injury as a result of the actions alleged in the Second Amended Complaint

EIGHTH AFFIRMATIVE DEFENSE
(Speculative Damages)

8. The Counterclaims are barred, in whole or in part, because Defendant's alleged damages are speculative.

NINTH AFFIRMATIVE DEFENSE
(Frivolous Claims)

9. The Counterclaims are asserted in bad faith and are frivolous, unreasonable, and without foundation. Plaintiffs are therefore entitled to an award of costs and expenses of litigation, including reasonable attorney's fees.

TENTH AFFIRMATIVE DEFENSE
(Failure to Join Necessary Parties)

10. The Counterclaims claims are barred, in whole or in part, due to Defendant's failure to join necessary parties.

ELEVENTH AFFIRMATIVE DEFENSE
(Defendant's Breach)

11. Defendant's Counterclaims are barred, in whole or in part, by Defendant's breaches of relevant contractual provisions.

TWELFTH AFFIRMATIVE DEFENSE
(Spoliation)

12. Defendant's Counterclaims are barred, in whole or in part, by Defendant's spoliation of evidence.

THIRTEENTH AFFIRMATIVE DEFENSE
(Right to Assert Additional Defenses)

13. Plaintiffs presently have insufficient knowledge or information on which to form a belief as to whether they may have additional yet unstated affirmative defenses. Plaintiffs reserve the right to assert additional affirmative defenses in the event discovery or further investigation indicates that asserted additional affirmative defenses would be warranted.

Dated: New York, New York
October 2, 2018

By: _____


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